

SUMMARY REPORT OF INVESTIGATION
Office of Inspector General Case # 15-0564 (Officer Arturo Becerra)
November 22, 2016

This report consists of a summary of the evidence set out in the attached investigative materials and the Office of Inspector General's (OIG's) analysis of that evidence. An index of the investigative materials is attached.

I. INTRODUCTION

An OIG investigation has established that Arturo Becerra, a police officer for the Chicago Police Department (CPD) who was at the scene when Officer Jason Van Dyke shot Laquan McDonald on October 20, 2014, failed to follow CPD Rules regarding the operation of CPD's in-car video systems. More specifically, and as detailed below, Becerra failed to ensure that his vehicle's in-car video system was capturing audio or video on October 20, 2014, and failed to notify his supervisor that the system was not operating properly. Accordingly, OIG recommends that CPD impose discipline upon Becerra commensurate with the seriousness of his misconduct, his discipline history, and department standards.

II. APPLICABLE RULES, REGULATIONS, AND LAW

A. CPD Rules and Regulations

CPD's Rules and Regulations set out the standards of conduct and duties of sworn members. Article V of the CPD Rules and Regulations, entitled CPD Rules of Conduct (the CPD Rules), sets forth specifically prohibited acts. In pertinent part, the CPD Rules include the following prohibitions:

Rule 6 Disobedience of an order or directive, whether written or oral.

Rule 11 Incompetency or inefficiency in the performance of duty.

B. CPD Special Order S03-05 (effective February 23, 2012 through February 24, 2016)

CPD Special Orders are directives that establish protocols and procedures concerning specific CPD functions, operations, programs, or processes. Special Order S03-05, which was in effect at the time of the shooting, outlines the protocols CPD members are to follow regarding in-car video systems.¹ Section VI of the Special Order provides that at the beginning of their tour of duty, Department members assigned to a CPD vehicle equipped with an in-car video system are to:

- (1) visually inspect the in-car video system equipment for damage;

¹ In-car video systems are also referred to as dash cameras or dashcams in this report.

- (2) obtain the remote transmitter/audio recorder and ensure it is securely attached to the member's person; and
- (3) follow the start-up procedures for the in-car video system as trained and ensure the system is working properly.

The Special Order notes that members are to "immediately notify a supervisor if, at any time, the in-car video system is inoperable, damaged, the equipped vehicle becomes inoperable, or the remote transmitter/audio recorder is missing." During their tour, members are to "audibly and visually record events in accordance with this directive." At the conclusion of a tour of duty, members are to "verify the in-car video system is working properly."

III. ARTURO BECERRA EMPLOYMENT HISTORY

Becerra has worked as a CPD Police Officer since 2010. Becerra is a member of Fraternal Order of Police (FOP) Lodge 7.

IV. SUMMARY OF INVESTIGATION

A. Procedural History of OIG's Investigation

By letter, dated December 8, 2015, Independent Police Review Authority (IPRA) Acting Chief Administrator Sharon Fairley requested that OIG conduct an administrative investigation "to determine whether certain police officers/witnesses made false statements on official reports prepared in connection with [Van Dyke's shooting of McDonald] and/or during the investigation of the incident."² IPRA further requested that OIG investigate "whether any of the involved Chicago Police officers committed any other violation(s) of Chicago Police Department rules, policies or procedures in their involvement with the incident, including, but not limited to, whether any officers' conduct may have interfered with or obstructed the appropriate investigation and handling of this matter."

Then, by letter, dated January 13, 2016, CPD Interim Superintendent John J. Escalante requested that OIG conduct an "administrative investigation into any and all allegations of police officer misconduct" arising out of the October 20, 2014 shooting death of McDonald. The Superintendent's request asked OIG to investigate the following allegations: "whether any officer(s) made false statements on official reports submitted in connection with the shooting of Laquan McDonald on October 20, 2014; whether any officer(s) obstructed or interfered with the investigation of this incident, either individually or in collusion with others; and whether any officer(s) committed any violation of Chicago Police Department rules, policies, or orders in connection with their response and/or handling of this matter." Escalante attached to the letter request a copy of Sergeant Sandra Soria's Initiation Report, which raises allegations of

² On November 24, 2015, the Cook County State's Attorney charged Van Dyke with a single count of first degree murder in the shooting of McDonald. On December 15, 2015, it subsequently charged him with six counts of murder. OIG has not been involved with any criminal investigation related to the shooting and makes no findings regarding Van Dyke's use of force.

misconduct related to the in-car video systems of the vehicles that were present during the McDonald shooting, and identified that Report as a basis for OIG's administrative investigation.

On March 10, 2016, Kevin Kilmer, Financial Secretary for the FOP, filed a grievance with CPD on behalf of all affected members stating that OIG's attempts to conduct CPD officer interviews violated Article 6 of CPD's Collective Bargaining Agreement (CBA) with the FOP.³ On March 16, 2016, FOP on behalf of all impacted CPD officers filed a "Complaint for Injunction in Aid of Arbitration" in the Circuit Court of Cook County, asking the court to enjoin OIG from conducting interviews until the grievance was decided in arbitration.⁴ The court dismissed the complaint and denied the injunction on March 22, 2016.

OIG's administrative investigation of other CPD employees' actions related to CPD's handling of the McDonald investigation is ongoing. During the course of its investigation, OIG has gathered documents from CPD and IPRA, among other sources, and conducted numerous interviews, including interviews of several CPD personnel who were at or responded to the scene of the shooting and civilian witnesses to the shooting. To date in its ongoing investigation, OIG has recommended disciplinary action against multiple CPD personnel.

B. The Events of October 20, 2014

The following sections detail the shooting of McDonald, as well as the relevant events that occurred directly before and after the shooting.⁵

1. [REDACTED] and Rudy Barillas's Encounter with McDonald⁶

[REDACTED] and [REDACTED] Rudy Barillas, were parking a truck in a lot at 41st Street and Kildare Avenue when [REDACTED] saw a black male, whom she subsequently identified as McDonald, attempting to steal property from certain vehicles parked in the lot. Barillas told McDonald to leave the lot. McDonald responded by making growling noises. After Barillas again told McDonald to leave the lot, McDonald pulled out a knife and swung it at Barillas. Barillas, who

³ Section 6.1, Paragraph I of the CBA states, "If the allegation under investigation indicates a recommendation for separation is probable against the Officer, the Officer will be given the statutory administrative proceeding rights, or if the allegation indicates criminal prosecution is probable against the Officer, the Officer will be given the constitutional rights concerning self-incrimination prior to the commencement of interrogation." CPD General Order GO8-01-01, Paragraph K contains similar language.

⁴ *Fraternal Order of Police, Chicago Lodge 7 v. City of Chicago*, No. 2016 CH 03726 (Cir. Ct. of Cook County, Ill., Mar. 16, 2016).

⁵ On April 22, 2016, OIG obtained maps of the locations that are relevant to the shooting from Google Maps and included those maps in Appendix A. Those maps generally reflect the street layout and location of relevant businesses as they were on the night of October 20, 2014.

⁶ The following account of [REDACTED] and Barillas's encounter with McDonald is taken from the March 16, 2015 case supplementary report (CSR) submitted by CPD Detective David March, which includes the statements that [REDACTED] and Barillas provided to CPD on October 21, 2014, and October 22, 2014, respectively. OIG 15-0564 003077.

had already called 911, then threw his cell phone at McDonald.⁷ McDonald ran from the lot, first northbound on Kildare and then eastbound on 40th Street.

2. Officers Thomas Gaffney and Joseph McElligott's Encounter with McDonald⁸

Officer Thomas Gaffney and his partner Officer Joseph McElligott received a call over the radio that someone had broken into a truck at 4100 South Kildare and were dispatched to the scene.⁹ Gaffney was driving, and McElligott was in the passenger seat of their assigned vehicle, 815R.¹⁰ When they arrived at 4100 South Kildare, they saw a Hispanic male and female standing by the gate to the truck yard. The two said that a black male wearing a black shirt, later determined to be McDonald, had been trying to steal the radio out of a semi-truck, and had subsequently headed north toward 40th Street.

Gaffney and McElligott drove north on Kildare, turned right onto 40th Street, and saw McDonald walking east on the south side of 40th Street. McElligott exited the vehicle and commanded McDonald to stop and turn around. Gaffney stayed in the vehicle in case McDonald attempted to flee. McElligott ordered McDonald to take his hands out of his pockets. McDonald, who had been facing McElligott, turned and walked away with one hand still in his pocket. McDonald then turned again and took both of his hands out of his pockets. He had a knife in his right hand. McElligott drew his weapon and told McDonald to drop the knife. McDonald started walking east again, going from the sidewalk to the street and back. McElligott

⁷ OEMC recordings reflect that Barillas called 911 at 9:45 p.m. stating that he was holding "a guy right hear [sic] that stolen [sic] the radios" from trucks in a truck yard located at "41st and Kildare." OIG 15-0564 003227.

⁸ The following account of Gaffney and McElligott's encounter with McDonald is taken from (1) the audio-recorded statements Gaffney and McElligott provided to IPRA on October 21, 2014, OIG 15-0564 000482-98, 000610-30; and (2) the March 16, 2015 CSR submitted by Detective David March, which includes the statements that Gaffney and McElligott provided to March on the night of the McDonald shooting. OIG 15-0564 003067-69.

⁹ OEMC records reflect that Gaffney and McElligott received the call at 9:47 p.m. OIG 15-0564 003691.

¹⁰ Below is a chart identifying the beat numbers and vehicle numbers of the CPD vehicles that were present when McDonald was shot, along with the names of the officers who were assigned to those vehicles. This SRI refers to the below-referenced vehicles by beat number, unless otherwise specified.

Beat #	Vehicle #	Officers
845R	6412	Officer Joseph Walsh (driver), Officer Van Dyke (passenger)
815R	8489	Officer Gaffney (driver), Officer McElligott (passenger and on foot)
813R	8779	Officer Janet Mondragon (driver), Officer Daphne Sebastian (passenger)
822	8765	Officer Becerra (driver), Officer Leticia Velez (passenger)
841R	8948	Officer Ricardo Viramontes (driver), Officer Dora Fontaine (passenger)

followed McDonald on foot, shining his flashlight on him, while Gaffney followed in 815R, parallel to McDonald.

As McDonald approached the intersection of 40th and Keeler, Gaffney reported to dispatch that McDonald was walking away with a knife in his hand.¹¹ Gaffney and McElligott continued to follow McDonald as he headed east, with McElligott giving McDonald orders to drop his knife and stop. McDonald kept turning around and giving the officers a “weird glaze[d] look.” Gaffney IPRA Tr. 11:20.¹²

As McDonald approached the intersection of 40th and Karlov, Gaffney turned his car toward McDonald to direct him down Karlov. Gaffney wanted to keep McDonald away from Pulaski, which was a more populated area. McDonald then swung his arm and popped 815R’s right front tire with his knife. McElligott was toward the back of 815R when McDonald popped its tire. After McDonald took a step back from the vehicle, Gaffney pulled up further in front of him to stop him from proceeding to Pulaski. McDonald then hit the right side of 815R’s windshield once with the knife in his right hand. The windshield did not break but, according to Gaffney, McDonald hit it as hard as he could. McDonald walked around the front of 815R and continued eastward on 40th Street. After McDonald had walked 10 to 15 feet, another squad car turned off of Pulaski onto 40th Street with its lights on, and McDonald began to sprint. McElligott followed McDonald on foot, and Gaffney followed McDonald in 815R. McDonald ran eastbound through a parking lot of a Burger King located at 40th and Pulaski and then headed southbound on Pulaski. Video footage from several cameras captured McDonald’s movements as he reached Pulaski.

3. Summary of the Relevant Video Footage

The below table contains a summary of the relevant video footage of the McDonald shooting, which includes the dashcam videos from 813R, 823R, and 845R, video from the “WNE fire exit” security camera from the Greater Chicago Food Depository, which is bordered by 40th Street to the north, Karlov Avenue to the east, and Keeler Avenue to the west, and the security camera video from the Dunkin’ Donuts, located at 4113 South Pulaski Road (the DD Camera).¹³

Time	Event(s) Captured	Source of Video
9:53:17 – 9:54:42	McDonald walks eastbound on the south side sidewalk of 40th Street; a CPD SUV travels east on 40th Street, parallel to McDonald with its front bumper even with	Greater Chicago Food Depository Security Camera

¹¹ OEMC recordings reflect that, at 9:53 p.m., 815R reported: “We’re at 40th and Keeler. This guy uh is walking away from us and he’s got a knife in his hand.” Approximately 30 seconds later, a dispatcher stated, “815R looking for a taser.” See OEMC Documents and CDs; see also OIG 15-0564 003691, 3228.

¹² OIG 15-0564 000620.

¹³ In addition to the videos cited in the summary, OIG obtained video footage from the security camera videos at Burger King and Focal Point, and the dash camera videos from Vehicles 815R and 821R. These videos do not contain footage relevant to this report.

	McDonald; an officer on foot trails directly behind McDonald by the length of the SUV, with his flashlight trained on McDonald. ¹⁴	
9:56:53 – 9:57:01	813R and 845R turn left onto 40th Street from Pulaski.	813R Dashcam
9:57:01– 9:57:09	An unidentified person on 40th Street points the CPD vehicles toward the Burger King parking lot (813R); 845R turns into the parking lot (813R). McDonald runs southeast through the Burger King parking lot out onto Pulaski (845R).	813R Dashcam; 845R Dashcam
9:57:09 – 9:57:20	845R drives over the curb and sidewalk north of Burger King and heads south on Pulaski (845R); 813R turns around, turns right onto 40th Street, and then right again on Pulaski (813R); McDonald runs southbound in the middle of Pulaski and enters the intersection of 41st Street and Pulaski (813R).	813R Dashcam; 845R Dashcam
9:57:20 – 9:57:25	845R, which is facing east/southeast on Pulaski just north of 41st street, turns right behind McDonald and proceeds south on Pulaski on the east side of the street; 845R's passenger door briefly opens and then closes as it passes McDonald on his left; McDonald continues southbound on Pulaski, toward 822, which is stopped in the middle of Pulaski facing north.	813R Dashcam
9:57:25 – 9:57:28	McDonald slows as he approaches 822, touches his hands to his waist, and then, before Walsh and Van Dyke exit 845R and with 822 situated between McDonald and the officers, McDonald extends his right arm fully to his right—the video shows that he has a silver object in his right hand; 845R passes 822 and comes to a stop on the east side of Pulaski, facing south and almost directly south of 822; Van Dyke opens 845R's passenger door.	813R Dashcam
9:57:28 – 9:57:30	McDonald changes course and begins walking southwest on Pulaski, away from 822 and 845R (813R); Van Dyke	813R Dashcam; DD Camera ¹⁵

¹⁴ OIG confirmed the vehicle is 815R and the officer on foot is McElligott by comparing the video with photographs of the officers. OIG 15-0564 003356.

¹⁵ The DD Camera video does not display an embedded timestamp. Therefore, OIG used the timestamp of 813R's video, which generally captured the same events as the DD Camera from a different angle, to establish the timeframe of the events captured by the DD Camera.

	exits the passenger side of 845R with both of his feet in Pulaski's northbound left turn lane, his gun drawn and pointed at McDonald (813R). Walsh exits the driver side of 845R, just east of Pulaski's northbound left turn lane, with his gun drawn, and moves north along the driver side of 845R until he is several feet north of 845R (DD Camera).	
9:57:30 – 9:57:33	McDonald continues to walk southwest, from the middle of Pulaski to the lane markers that divide the west side of the road (or approximately one lane west of where McDonald was prior to changing course) (813R). While McDonald walks southwest, Walsh begins moving sideways in a west/southwest direction, approximately parallel to McDonald, and crosses over the east side of Pulaski's northbound left-turn lane—his gun is pointed at McDonald (813R; DD Camera). Van Dyke takes approximately two steps northwest toward McDonald, with his left foot crossing into Pulaski's yellow-painted median strip—his gun is pointed at McDonald (813R; DD Camera). 822 drives north on Pulaski, away from 845R (813R).	813R Dashcam; DD Camera
9:57:33 – 9:57:36	As McDonald approaches the lane markers on the west side of Pulaski, walking in a southwest direction, he looks to his right and moves his right hand behind his waist, near the right side of his lower back, then brings his hand back to his right side (813R). As McDonald crosses the lane markers on the west side of Pulaski, he looks to his left, and takes a step southbound (813R). Meanwhile, Walsh continues moving west/southwest with his gun pointed at McDonald, ultimately traversing almost the entire width of Pulaski's northbound left-turn lane (813R; DD Camera). Van Dyke takes an additional step west, toward McDonald, putting both of his feet in Pulaski's median strip and placing himself almost directly between McDonald and Walsh (813R; DD Camera). McDonald is then apparently shot and Walsh stops moving and adopts a stance, with his feet more than a shoulder's width apart (813R; DD Camera).	813R Dashcam; DD Camera
9:57:36 – 9:57:54	McDonald spins between 180 and 270 degrees in a clockwise direction and then falls to the ground with the top of his head pointing south on Pulaski, approximately one street lane east of Van Dyke and just south of Van	813R Dashcam; DD Camera

	Dyke (813R). As McDonald falls to the ground, Van Dyke takes another step west toward McDonald, moving his right foot from Pulaski's median strip into the south-bound side of Pulaski; his gun remains pointed at McDonald (813R). Van Dyke subsequently takes an additional step or two south, toward McDonald. Other than those steps, Van Dyke's feet are stationary (DD Camera). After McDonald is on the ground, his legs and feet do not move (813R). McDonald's upper body makes small, intermittent movements as what appear to be puffs of smoke rise from McDonald's body (813R). ¹⁶	
9:57:54 – 9:58:05	An officer approaches McDonald and kicks the knife from his hand. McDonald does not make any noticeable movements.	813R Dashcam
9:58:05- 9:58:20	McDonald lies on the ground; no aid is rendered by CPD personnel. 823R, travelling northbound, pulls up on the west side of Pulaski, and stops just south of where McDonald is lying.	813R Dashcam; 823R Dashcam
9:58:20- 9:58:57	Several CPD officers walk and stand near McDonald as he lies on the ground; no aid is rendered by CPD personnel.	813R Dashcam; ¹⁷ 823R Dashcam
9:58:57- 9:59:02	823R begins making a U-turn on Pulaski. A Cook County Sheriff's Police Department (CCSPD) officer puts on blue gloves and walks toward McDonald. ¹⁸ McDonald is no longer visible in the video frame.	823R Dashcam

4. CCSPD Officer Accounts of the October 20, 2014 McDonald Shooting¹⁹

While on patrol on October 20, 2014, CCSPD Officers Adam Murphy and Jeff Pasqua observed several CPD police vehicles pass by them. Both officers decided to follow the CPD vehicles. When they arrived at the scene, several CPD vehicles were already present—Pasqua estimated it was five or six. McDonald was lying on the pavement “gasping for his last breath of air.”

¹⁶ OEMC records show that dispatch received notice to send an ambulance to the scene at 9:57:51. OIG 15-0564 003691.

¹⁷ The last time stamp visible on the 813R dashcam video is 9:58:55.

¹⁸ OIG identified the CCSPD officer as Officer Adam Murphy.

¹⁹ The following CCSPD Officer accounts are taken from OIG's June 23, 2016 interview of Jeff Pasqua and its June 24, 2015 interview of Adam Murphy. Pasqua and Murphy are currently CCSPD investigators.

Pasqua OIG Tr. 11:22-23. Meanwhile, the CPD officers were “standing around” and talking to each other. Murphy OIG Tr. 11:1. Murphy noted the CPD officers did not respond to him when he asked if they needed assistance. Murphy stated:

I see there’s blood all over the pavement. [McDonald] was kind of gurgling when he was sitting there. I remember his mouth was going open and closed like he was trying to gasp for air. And I looked for everybody else, and they were kind of standing there. I just started taking my gloves—my rubber gloves out to check for a pulse and to see if I could render aid.

Murphy OIG Tr. 12:18-13:2. He heard someone say an ambulance was en route.²⁰ Both Officers Murphy and Pasqua recalled then watching McDonald take his final breaths.²¹ It was “[m]aybe less than a minute before [McDonald] expired.” Murphy OIG Tr. 14:15-16. At no time did any CPD officers attempt to provide aid or comfort McDonald—Murphy stated, “That’s why I felt that I needed to go up to him.” Murphy OIG Tr. 14:11-12.

After McDonald passed away, Murphy got up from beside him and noticed the shooting officer, who he now knows to be Van Dyke, “pacing back and forth in front of his car.” Murphy OIG Tr. 15:7-8. Murphy approached him and told him to sit down and drink water. As he was speaking with Van Dyke, Murphy “heard several officers telling [Van Dyke] to call your union rep, call your union rep.” Murphy OIG Tr. 15:16-17.

Murphy and Pasqua departed after approximately ten minutes on the scene when a CPD sergeant told them CPD did not need their assistance. At the time they left, there was “[a] sea of CPD” on scene. Murphy OIG Tr. 38:3; Pasqua OIG Tr. 25:7-8.

C. Becerra’s October 20, 2014 Statement Regarding the McDonald Shooting²²

On March 15, 2015, Detective David March submitted a case supplementary report (CSR) with the R.D. Number HX475653 that contains a summary of CPD’s investigation.²³ Lieutenant

²⁰ In a January 22, 2016 OIG interview, CPD Area North Commander Kevin Duffin stated CPD police officers have a duty to render aid to injured civilians per general orders. Police officers render aid by calling dispatch and requesting that an ambulance be dispatched to the scene. According to Duffin, police officers are not required or expected to provide any more assistance than this. On March 30, 2016, CPD issued General Order G03-06 which requires that the involved member(s) “request medical attention for the injured, and also offer immediate medical aid commensurate with their training, experience, and available equipment.”

²¹ The Medical Examiner’s Case Report states McDonald was pronounced dead “on view” at Mount Sinai Medical Center on October 20, 2014, at 10:42 p.m. OIG 15-0564 015029.

²² OIG 15-0564 003070.

²³ CPD’s investigation in the aftermath of the McDonald shooting was reported under record number HX-475653, and most reports were classified as an investigation into an aggravated assault in which McDonald was the offender. In a few reports, the case was classified as an investigation into a justifiable homicide of which McDonald was the victim. An additional record number was also created and classified as a justifiable homicide, apparently for recordkeeping purposes. In CPD’s investigative reports classified under the aggravated assault, CPD personnel drew conclusions about the propriety and lawfulness of Van Dyke’s shooting of McDonald. This raises questions about CPD’s role in investigating a police-involved shooting in light of IPRA’s jurisdiction over the matter.

Anthony Wojcik approved the CSR on March 16, 2015. Included in that CSR is a summary of the statement that March purported to have obtained from Becerra at the scene of the shooting, which states in relevant part:

[Becerra] stated he was a Chicago Police Officer assigned to the 008th District. He was on duty, in uniform, working on Beat 822. Bacerra [sic] was working with Police Officer Leticia Velez. The two officers were assigned to a marked vehicle. Bacerra [sic] was driving the vehicle and Velez was the passenger.

Officer Bacerra [sic] and his partner responded to the request for assistance made by Beat 815R, regarding a subject who was armed with a knife. Bacerra [sic] was driving northbound on Pulaski Road from 47th Street. As he approached the scene of this incident, at 4112 South Pulaski, he observed a black male subject, now known as Laquan McDonald, in the middle of the street, flailing his arms. As he got closer, Bacerra [sic] observed McDonald to be holding a knife in his right hand. Bacerra [sic] drove past McDonald, with McDonald on the left side of the police vehicle, as Beat 845R drove past Bacerra [sic], on the right side of his vehicle, travelling southbound. As Bacerra [sic] began to make a U-turn, he heard multiple gunshots. He then saw McDonald lying on the ground. Bacerra [sic] did not see who fired the shots.²⁴

D. Records and Interviews Concerning 822's In-Car Video System

1. October 20, 2014 Supervisor's Management Log

Sergeant Sean Tully completed and signed a "Supervisor's Management Log," dated October 20, 2014, for the third watch officers under his supervision, which included Becerra and Velez. Under "Personnel and Assignments," the log lists Becerra and Velez's names, as well as their beat (822) and vehicle number (8765). Tully noted that the 822 vehicle had an in-car camera and that the camera was "Operable and Logged On" as of 16:30.²⁵

2. Sergeant Becvar's Reports and Interview

On October 21, 2014, CPD Sergeant Lance Becvar submitted a supplementary report for R.D. No. HX475653 concerning his retrieval of video from the in-car video systems of the five CPD vehicles that were on scene when Van Dyke shot McDonald.²⁶ With respect to the beat 822 vehicle (also referred to as Vehicle 8765), the vehicle Becerra was driving on October 20, 2014, Becvar noted "Not engaged—Officer reported power issue." Becvar also completed a

²⁴ Detective March completed a General Progress Report (GPR) relating to his interview of Becerra that contains March's handwritten notes of the interview. OIG 15-0564 003250. March's handwritten notes of the interview do not differ in any significant way from the summary of Becerra's statement in the CSR.

²⁵ With respect to the beat 825 and 849 vehicles, Tully noted that the vehicles' in-car cameras were inoperable and listed a corresponding help desk ticket number for each vehicle's camera.

²⁶ OIG 15-0564 004991.

corresponding “In Car Camera Video Retrieval Worksheet” regarding his October 20, 2014 video retrieval, in which he made the following notation with respect to 822: “Mics in charging cradles, not sync’d to system.”²⁷

On July 17, 2015, Becvar sent an email summarizing his findings regarding his October 20, 2014 video retrieval from 822 and the other four CPD vehicles that were on scene when Van Dyke shot McDonald.²⁸ With respect to 822, Becvar wrote: “System not engaged, officer related no power. There was no open H[elp] D[esk] T[icket] called in on vehicle. MICs not sync’d to system even though they were in the charging cradles.”

In a January 27, 2016 OIG interview, Sergeant Becvar stated that when he checked 822’s in-car video system on October 20, 2014, it was not engaged and there was no video. In addition, 822’s mics were not synced to the system. Becvar had a conversation with Velez that evening, and she related that 822’s in-car video system had not been working correctly. Velez told Becvar that the system’s power had been going on and off. When asked what could cause the system to have no power, Becvar responded: “Is it an interface problem with the car, is it the CPU has a loose board or power supply, a damaged cable, some tampering, I wish I could answer that.” Becvar OIG Tr. 65:13-16. According to Becvar, if 822’s in-car video system was not powering up at the beginning of Becerra and Velez’s shift, “they should have notified their sergeant,” and obtained a help desk ticket. Becvar OIG Tr. 70:16-17. When Becvar returned to the Detective Division from the scene of the shooting, he checked to see if 822 had an open help desk ticket and determined that it did not.²⁹

E. OIG Interview of Becerra

On September 14, 2016, pursuant to Section 6.1 of the CBA between CPD and FOP, OIG, through CPD’s Bureau of Internal Affairs, served Becerra with a Notification of Interview, Notification of Allegations, and copies of his prior statements, including (1) his October 20, 2014 statement to Detective March, contained in the March 16, 2015 CSR, and (2) Detective March’s GPR containing his handwritten notes of his interview of Becerra. In addition, OIG provided Becerra with the dashcam footage from 813R and 845R and the security camera footage from Dunkin’ Donuts.³⁰

On September 23, 2016, OIG investigators interviewed Becerra under oath after informing him of his administrative advisements orally and in writing. Becerra provided oral and written acknowledgement of the reading of those advisements. The interview was transcribed by a

²⁷ OIG 15-0564 004992.

²⁸ OIG 15-0564 000567.

²⁹ CPD records reflect that no help desk tickets were opened concerning Vehicle 8765’s in-car camera system in the 30 days preceding or following Becerra’s October 20, 2014 tour of duty.

³⁰ During his September 23, 2016 interview, Becerra acknowledged that he reviewed those videos in preparation for his interview.

certified court reporter. Becerra was accompanied by his attorney. In summary, Becerra stated as follows.

1. October 20, 2014

As of October 20, 2014, Becerra was assigned to the third watch in the 8th District. The third watch shift begins at 3:30 p.m. and ends at 12:30 a.m.

a) *Scene of McDonald Shooting*

Becerra was present when Van Dyke shot McDonald. Becerra was driving the 822 vehicle at the time of the shooting, and Velez was in the passenger seat. Velez was Becerra's regular partner and had been so for one or two years.

Prior to the shooting, Becerra and Velez were sitting in 822 at 53rd and St. Louis having lunch when they heard an officer "screaming" over the radio for a taser. Becerra OIG Tr. 16:18. Becerra decided to assist the officer and started driving toward 41st and Pulaski, the location Becerra heard over the radio. Becerra and Velez did not have a taser with them.

Becerra traveled northbound on Pulaski with his lights and sirens on. As Becerra got closer to the scene, he saw McDonald "in the middle of the street." Becerra OIG Tr. 17:16. McDonald was walking "with sort of like a skip." Becerra OIG Tr. 19:6-7. Becerra saw a knife in McDonald's hand and was shocked "that he was actually walking towards" 822. Becerra OIG Tr. 17:22-23. Becerra did not feel "safe and comfortable with the distance" between McDonald and 822. Becerra OIG Tr. 17:24-18:1. Becerra noticed McDonald "started walking away from [822]." Becerra OIG Tr. 18:1-2. Becerra then "proceeded to drive past [McDonald] to make a U-turn." Becerra OIG Tr. 18:2-3. As Becerra was in the middle of making the U-turn, he heard shots being fired.

Becerra stopped 822, exited the vehicle and "saw the officer shooting the—the subject." Becerra OIG Tr. 18:5-6. After the shooting stopped, Becerra stated, he "felt like the situation was under control. Felt better." Becerra OIG Tr. 18:7-8. McDonald was already on the ground when Becerra exited 822. Officers Van Dyke and Walsh were "right in front of [Becerra]." Becerra OIG Tr. 50:10.

Becerra subsequently went to check on Velez and make sure she was okay. Becerra and Velez then got back into 822 and moved the vehicle to make way for other officers. Becerra and Velez then waited for direction from their supervisors. Other than Velez, Becerra did not speak to any of the other officers who were present during the shooting. He did not hear any of the officers describe the shooting.

Becerra initially stated that he did not see any video of the shooting at the scene. He then clarified that while he was on scene, a sergeant, whose name he did not know, called Becerra over to another CPD vehicle, most likely 813R, pointed to its camera, and asked him whether it was Becerra's vehicle that was pictured on screen. Becerra said yes, and the sergeant said:

“Okay, they want to talk to you at Area.”” Becerra OIG Tr. 32:5-6. The portion of the video Becerra watched did not include the shooting.

b) *Area Central*

Becerra believed he was at the scene of the shooting for approximately 30 to 60 minutes before heading to Area Central. He and Velez drove to Area Central in the 822 vehicle. Once Becerra and Velez arrived, they sat at a table and waited for instructions. Becerra saw Van Dyke, Walsh, and Mondragon at Area Central, but did not talk to them.

Becerra recalled that, at some point that evening, a detective asked Becerra what he saw, and Becerra gave a statement. Becerra did not know the name of that detective. Becerra initially could not recall whether that conversation took place at the scene or at Area Central, but then clarified that that exchange occurred at one of the tables in Area Central’s main area. When asked whether he talked to one detective or multiple detectives, Becerra responded: “[T]here was maybe multiple detectives asking me different types of questions, so I don’t know. It wasn’t—it wasn’t like we were sitting down one on one. I don’t know. It was more like a group of plainclothes officers.” Becerra OIG Tr. 40:16-21. Velez was in Becerra’s “general area” while he was giving his statement. Becerra OIG Tr. 41:11.

c) *HX475653 CSR*

According to Becerra, the statement attributed to him in the HX475653 CSR was generally accurate. However, Becerra did not recall using the word “flailing,” in reference to McDonald’s movement of his arms. In addition, with respect to the line “He then saw McDonald lying on the ground,” Becerra said that he told the detective: “As I exited my vehicle, then I saw the officer shooting McDonald.” Becerra OIG Tr. 49:11-12. Becerra said that portion of his statement was not recorded accurately: “[M]aybe I was rushed or maybe he didn’t kind of finish the paragraph, I don’t know.” Becerra OIG Tr. 49:19-20.

2. Vehicle 822’s In-Car Video System

As of October 20, 2014, Becerra was aware of the protocols set forth in S03-05 and had a general understanding of those protocols. Becerra said he usually followed the start-up procedures set forth in S03-05 at the beginning of his tour of duty. When asked whether it was his regular practice to notify his supervisor when his vehicle’s in-car video system was not working, Becerra responded: “Yes. But—what usually happens is that the supervisor, he would ask us—there would be sometime during the tour he would check—he checks—check up on us, how are you doing, how are you doing, how is the camera working. And then usually if there was a problem, we would tell him at that particular time.” Becerra OIG Tr. 56:22-57:5. According to Becerra, the squad car dashcams were “very temperamental”—“they will work one minute, a few minutes later they won’t work.” Becerra OIG Tr. 53:19-21.

Becerra was generally assigned to 822 (also known as the 8765 vehicle) around the time of the McDonald shooting. Becerra claimed that the vehicle’s camera malfunctioned “every day”— “[i]t would like freeze. The system would freeze for some time.” Becerra OIG Tr. 59:9-12.

Becerra claimed that he would tell the sergeant about the system freezes and the sergeant would obtain a ticket number. Becerra generally reported issues “through the computer.” Becerra OIG Tr. 66:16.³¹

On October 20, 2014, Velez unsuccessfully attempted to log on to 822’s in-car video system at the beginning of Becerra and Velez’s tour. They attempted to restart the camera, but it did not reboot. Becerra kept his microphone in its charging dock because the camera was acting up.

Becerra said that he and Velez “didn’t really get a chance to report those issues” to their sergeant. Becerra OIG Tr. 61:1-2. Becerra added that “the opportunity didn’t arise to like, oh, let’s meet up with the sergeant and tell him.” Becerra OIG Tr. 61:11-13. Becerra and Velez did not file a help desk ticket on October 20, 2014, with respect to 822’s in-car video system.

While Becerra and Velez were at the scene following the shooting, a plainclothes officer came to check on 822’s camera. The officer had a keyboard and was trying to log on to 822’s camera. Becerra did not recall having a conversation with the officer.

When asked to respond to the allegation that Becerra “failed to ensure the in-car video system for CPD vehicle 8765 was working properly at the beginning of [his] tour of duty” on October 20, 2014, Becerra stated: “Yeah, that’s accurate.” Becerra OIG Tr. 68:4-10. When asked to respond to the allegation that Becerra “failed to immediately notify a supervisor that the in-car video system for CPD vehicle 8765 was inoperable or damaged” on October 20, 2014, Becerra stated: “Yeah, again, probably accurate.” Becerra OIG Tr. 68:12-17. When asked to respond to the allegation that Becerra “failed to audibly record events with CPD vehicle 8765’s in-car video system during [his] tour of duty” on October 20, 2014, Becerra stated: “Yeah, accurate.” Becerra OIG Tr. 68:19-24.

V. ANALYSIS

OIG’s investigation established that Officer Arturo Becerra violated CPD Rule 6 (disobedience of an order, namely S03-05) and Rule 11 (incompetency in the performance of a duty) by failing to visually and audibly record events with his in-car video system and failing to notify his supervisor about the system’s inoperability. CPD records establish that 822’s in-car video system did not capture video or audio during Becerra’s October 20, 2014 tour. Sergeant Lance Beccvar, who attempted to recover video from 822’s in-car video system, found that the system was not engaged. Becerra said that he and Velez unsuccessfully attempted to log in to 822’s in-car video system at the beginning of his October 20, 2014 tour.³² Becerra admitted, though, that he never contacted his supervisor to obtain a help desk ticket regarding the supposedly malfunctioning system, as required by S03-05. Becerra claimed that he did not have the

³¹ OIG requested from OEMC the portable data terminal (PDT) messages sent from the 822 vehicle on October 20, 2014. However, OEMC notified OIG that it only maintained those records for seven days and thus was no longer in possession of the records at the time of OIG’s request.

³² Sergeant Tully’s October 20, 2014 Supervisor’s Management Log contradicts Becerra’s statement as it reflects that 822’s system was “operable and logged on” one hour after Becerra’s tour started. A lack of evidence regarding the actual mechanical state of the 822 dashcam during Becerra’s October 20, 2014 tour, including the absence of October 20, 2014 PDT messages for 822, preclude any finding as to whether Tully’s log was true and accurate.

“opportunity” to report the malfunction during his October 20, 2014 tour, but acknowledged that he had the ability to make such a report through his computer and did not need to have that conversation with his sergeant in person.³³ In addition, McDonald’s shooting occurred more than six hours after Becerra’s shift began, meaning Becerra had ample time to report 822’s inoperative in-car video system.

Becerra’s failure to follow CPD’s in-car video system protocols prevented CPD from collecting potentially important, objective, technology-based evidence of the McDonald shooting. As a result, investigators are now forced to rely on Becerra’s subjective unrecorded oral account of the shooting. Becerra’s violation of CPD rules also served to harm the relationship between CPD and the residents it serves. A functioning in-car video system is critical to CPD’s efforts to maintain accountability for its officers. That accountability, in turn, fosters the public’s trust in CPD. When accountability mechanisms fail, as they did in the present case, where only one of the five CPD vehicles present at the shooting captured video of the actual shooting and none of those vehicles captured audio, the public can lose faith in CPD’s commitment to accountability. Thus, as CPD works to rebuild the relationship between its officers and the greater Chicago community, it must ensure that its personnel understand the importance of keeping all aspects of CPD’s accountability framework, including in-car video systems, functional.

VI. RECOMMENDATION

OIG recommends that CPD impose discipline upon Becerra commensurate with the seriousness of his misconduct, his discipline history, and department standards.

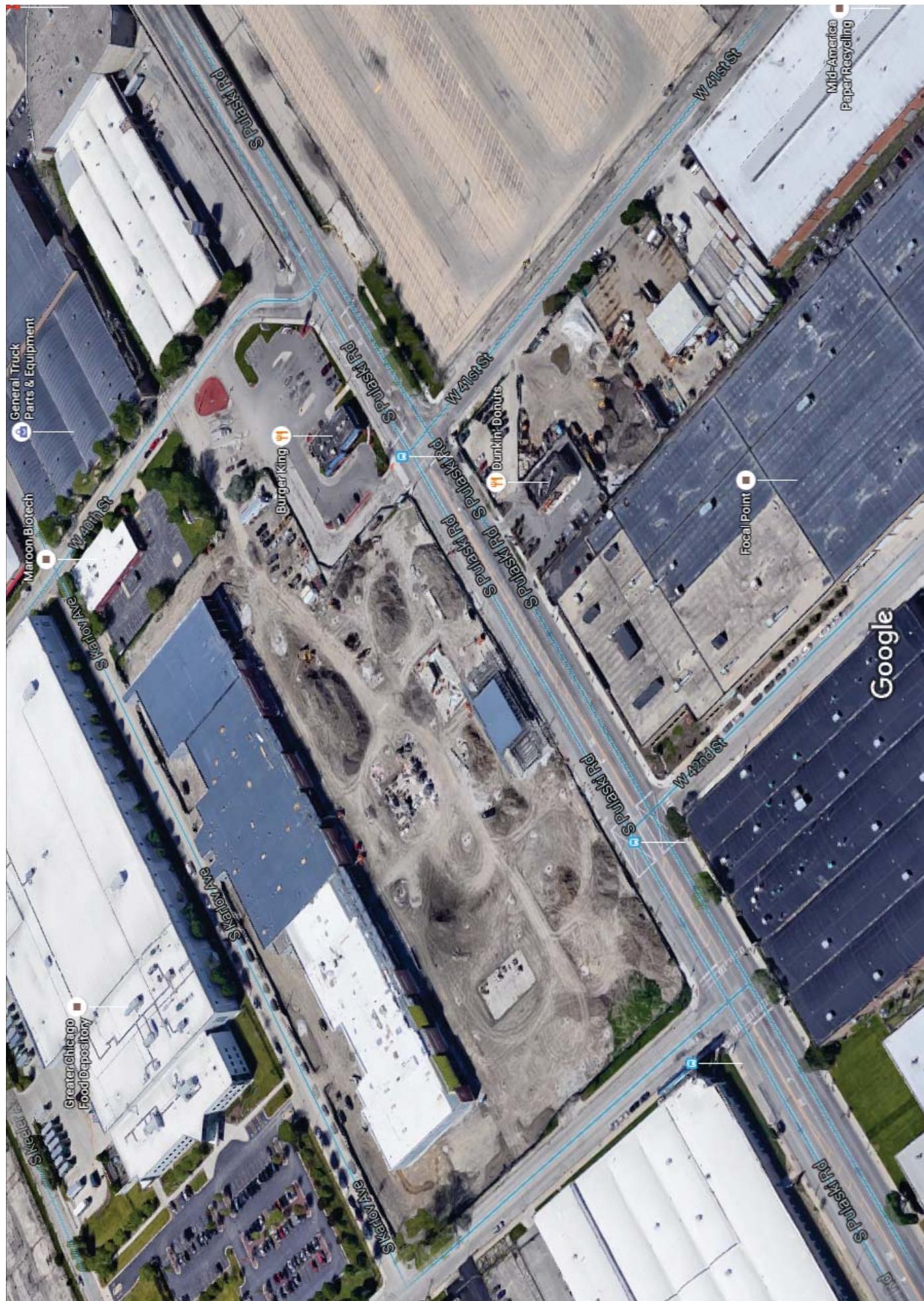
VII. CPD RULE VIOLATIONS

Rule 6 Disobedience of an order or directive, whether written or oral.

Rule 11 Incompetency or inefficiency in the performance of duty.

³³ Becerra further claimed that 822’s camera malfunctioned “every day.” Becerra OIG Tr. 59:12. However, CPD records reflect that there were no help desk tickets opened for 822’s camera in the thirty days prior to or following the shooting. Thus, the evidence suggests that Becerra repeatedly violated S03-05 by failing to alert his supervisor to what Becerra himself described as his vehicle’s constantly malfunctioning camera.

Appendix A



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